

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 726, FOOD AND DRUGS ACT.

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### ADULTERATION AND MISBRANDING OF BITTERS.

On or about October 1, 1910, F. Dugno, Philadelphia, Pa., shipped from the State of Pennsylvania into the State of New York 65 cases of bitters, each of said cases containing 12 bottles labeled in Italian "Fernet-Branca Dei Fratelli Branca E. Comp. Guaranteed by L. Gandolfi & Company New York Agents under the Food and Drugs Act, June 30, 1906. Serial No. 2831." Analyses and examination of samples from the above shipment revealed that the product contained 47.5 per cent alcohol and of this 22 per cent was of the kind known as ethyl and 78 per cent of the kind known as methyl alcohol, and that the product was of domestic manufacture. As it appeared from the above analyses and examination and report thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Southern District of New York.

In due course a libel was filed in the District Court of the United States for said district against the said 65 cases of bitters, charging the above shipment and alleging the product so shipped to be adulterated in that said "Fernet Branca" is an article of food and is adulterated in that said "Fernet Branca" contained in each and every one of said bottles in said 65 cases contains methyl alcohol, a poisonous and deleterious ingredient, which substance has been mixed with said "Fernet Branca" so as to reduce and lower and injuriously affect its quality and strength, and which substance has been substituted wholly or in part for ethyl alcohol, and in that said "Fernet Branca" contains said methyl alcohol, which is a poisonous and deleterious added ingredient which may render said "Fernet Branca" injurious to health; and further alleging the product to be misbranded, in that the said "Fernet Branca" is an article of food and is labeled and branded so as to deceive and mislead the purchaser and purports to be a foreign product when not so; in that said "Fernet Branca" is labeled and marked in such manner as to indicate that it is of foreign manufacture; and in that said bottles in which said "Fernet Branca" is contained and the labels and marks

thereon are facsimiles and counterfeits of a genuine Italian article known as "Fernet Branca" which is imported into this country by L. Gandolfi of the city of New York, N. Y., and praying seizure and condemnation of the product.

On November 1, 1910, the cause came on for hearing and no claimant to the product having appeared and no answer having been filed, the court being fully informed in the premises, issued its decree condemning and forfeiting the said 65 cases of "Fernet Branca" to the use of the United States for the causes in said libel set forth and ordering the destruction of the said 65 cases of "Fernet Branca" by the marshal for said district.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 5, 1911.*

